



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R01-OAR-2009-0689; FRL-9674-4]**

**Approval and Promulgation of Air Quality Implementation Plans; Vermont; Regional Haze**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final Rule.

**SUMMARY:** EPA is approving a revision to the Vermont State Implementation Plan (SIP) that addresses regional haze for the first planning period from 2008 through 2018. The revision was submitted by the Vermont Department of Environmental Conservation (VT DEC) on August 26, 2009, with a supplemental submittal on January 3, 2012. This revision addresses the requirements of the Clean Air Act (CAA) and EPA's regulations that require States to prevent any future, and remedy any existing, manmade impairment of visibility in mandatory Class I Areas caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the "regional haze program").

**EFFECTIVE DATE:** This rule is effective on **[Insert date 30 days from date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No.

EPA-R01-OAR-2009-0689. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov)

web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Air Pollution Control Division, Agency of Natural Resources, Building 3 South, 103 South Main Street, Waterbury, VT 05676.

**FOR FURTHER INFORMATION CONTACT:** Anne McWilliams, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square – Suite 100, (Mail Code OEP05-02), Boston, MA 02109 – 3912, telephone number (617) 918-1697, fax number (617) 918-0697, e-mail [mcwilliams.anne@epa.gov](mailto:mcwilliams.anne@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
- II. Final Action
- III. Statutory and Executive Order Reviews

## **I. Background and Purpose**

On February 28, 2012, EPA published a Notice of Proposed Rulemaking (NPR) for the State of Vermont. See 77 FR 11914. The NPR proposed approval of the Vermont State Implementation Plan (SIP) that addresses regional haze for the first planning period from 2008 through 2018. It was submitted by the VT DEC on August 26, 2009, with a supplemental submittal on January 3, 2012. Specifically, EPA proposed to approve Vermont's August 26, 2009 SIP revision, and its supplement, as meeting the applicable implementing regulations found in 40 CFR 51.308. EPA also proposed to approve Vermont's revised Section 5-221, "Prohibition of Potentially Polluting Materials in Fuel," and incorporate this regulation into the Vermont SIP.

A detailed explanation of the requirements for regional haze SIPs, as well as EPA's analysis of Vermont's Regional Haze SIP submittal was provided in the NPR and is not restated here.

EPA received one comment on the NPR. It was from the U.S. Forest Service in support of the proposed approval of Vermont's Regional Haze SIP submittal.

## **II. Final Action**

EPA is approving Vermont's August 26, 2009 SIP revision and supplemental submittal on January 3, 2012, as meeting the applicable implementing regulations found in 40 CFR 51.308. In addition, EPA is approving Vermont's revised Section 5-221, "Prohibition of Potentially Polluting Materials in Fuel," and incorporating this regulation into the Vermont SIP.

### **III. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after

it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See Clean Air Act § 307(b)(2), 42 U.S.C. § 7607(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 8, 2012

Ira W. Leighton,  
Acting Regional Administrator,  
EPA Region 1.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 - [AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart UU - Vermont**

2. Section 52.2370 is amended by revising the entry for Section 5 – 221 in paragraph (c) and adding a new entry at the end of the table in paragraph (e) to read as follows:

**§ 52.2370 Identification of plan.**

\* \* \* \* \*

(c) EPA approved regulations.

**EPA-Approved Vermont Regulations**

State citation	Title/subject	State effective date	EPA approval date	Explanations
**	*	*	*	**
Section 5–221	Prohibition of potentially polluting materials in fuel	10/14/2011	<b>[Insert date of <u>FR</u> publication]</b>  <b>[Insert <u>Federal Register</u> page number where the document begins]</b>	Approve revised Section 5 – 221(1)
**	*	*	*	**

\* \* \* \* \*

(e) Nonregulatory.

## Vermont Non-Regulatory

Name of Non Regulatory SIP Provision	Applicable Geographic or Nonattainment Area	State Submittal Date/Effective Date	EPA Approved Date	Explanations
**	*	*	*	**
Vermont Regional Haze SIP and its supplement	Statewide	8/26/2009; supplement submitted 1/3/2012	<b>[Insert date of <u>FR</u> publication]</b>  <b>[Insert <u>Federal Register</u> page number where the document begins]</b>	

[FR Doc. 2012-12233 Filed 05/21/2012 at 8:45 am; Publication Date: 05/22/2012]